



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of
Enforcement

MEMO ENDORSED

September 4, 2020

**LETTER MOTION
BY ELECTRONIC EMAIL**

Hon. Katherine Polk Failla
United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007
Failla_NYSDChambers@nysd.uscourts.gov

RE: Commodity Futures Trading Commission v. Casper Mikkelsen a/k/a “Carsten Nielsen,” a/k/a “Brian Thomson,” a/k/a “Thomas Jensen” and a/k/a “Casper Muller,” Defendant, Civil Action 1:20-cv-03833, Hon. Katherine Polk Failla

Honorable Judge Failla,

I am a trial attorney at the Division of Enforcement of the United States Commodity Futures Trading Commission and I am an attorney of record in the above-referenced case. Pursuant to Sections 2.C and 2.D of your Individual Rules of Practice in Civil Cases (“Individual Rules”) and Local Rules 5.2(b) and 7.1, Plaintiff respectfully moves for an adjournment of the initial pretrial conference currently scheduled for September 30, 2020 at 11:30 a.m. (“Pretrial Conference”) or alternatively that the Pretrial Conference be cancelled.

Plaintiff has not previously requested an adjournment. Plaintiff seeks either an adjournment or cancellation of the Pretrial Conference due to Defendant’s failure to serve an answer pursuant to Fed. R. Civ. P. 12(a) or otherwise move with respect to the complaint. Defendant also has not submitted any pre-motion letter requesting permission, pursuant to Section 4.A of your Individual Rules, to file a motion, move to dismiss or otherwise move with respect to the Complaint under Rule 12. As a result, Plaintiff intends to seek a Certificate of Default from the Clerk’s Office and file an Order to Show Cause for a default judgment and supporting papers (“Default Judgment”), pursuant to Section 4.I of your Individual Rules.

On July 1, 2020, Defendant was personally served with a copy of the Summons and Complaint, the notice of the Pretrial Conference, and the Court’s Individual Rules. *See* ECF No. 22. Pursuant to Fed. R. Civ. P. 12, Defendant was obligated to file an answer within 21 days of service of the Summons and Complaint (July 22, 2020). Further, Defendant’s deadline to file an

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answer was not stayed since Defendant failed to submit a pre-motion letter, pursuant to Section 4.A of your Individual Rules, concerning a motion to dismiss or to other motion with respect to the Complaint.

Accordingly, Plaintiff respectfully requests that the Pretrial Conference be adjourned or cancelled so that Plaintiff can move for a Default Judgment.

Respectfully Submitted,

/s/ Xavier Romeu-Matta
Trial Attorney
Division of Enforcement
(202) 352-0099
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Cc: Casper Mikkelsen/ Casper Muller w/enclosures

Enclosures: Certificate of Service, ECF No. 22

The Court is in receipt of the above motion to adjourn or cancel the initial pretrial conference currently scheduled for September 30, 2020, in light of Defendant's failure to timely answer or otherwise respond to the Complaint. The request is DENIED without prejudice to its renewal at a date closer to the scheduled conference. The Court wishes to give Defendant a final opportunity to enter an appearance and provide an explanation for the tardy response.

SO ORDERED.

Dated: September 8, 2020
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE